

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MONTRELL OLIVER : CIVIL ACTION
 :
 :
 v. :
 :
 :
 BARRY SMITH, et al. : NO. 16-5537

ORDER

AND NOW, this day of , 202 , upon careful and independent consideration of the petition for writ of habeas corpus and associated briefing, and after review of the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey, as amended, IT IS ORDERED that:

1. The Report and Recommendation, as amended, is APPROVED AND ADOPTED.
2. The petition for writ of habeas corpus is GRANTED with respect to Petitioner's claim of ineffective assistance of counsel ("IAC") for failing to investigate and present testimony from alibi witnesses.
3. Execution of the writ is STAYED for 180 days to permit the Commonwealth to retry Petitioner.
4. In all other respects, the writ is DENIED.
5. A certificate of appealability shall not issue.

BY THE COURT:

MITCHELL S. GOLDBERG, J.